

186 Center Street Suite 290 Clinton, NJ 08809 (908) 735-9315 (908) 735-2132 FAX

October 15, 2013

VIA ELECTRONIC & US MAIL

Ms. Stephanie Vaughn
ATTN: Lower Passaic River Remedial Project Manager
Emergency and Remedial Response Division
U.S. EPA, Region 2
290 Broadway, 19th Floor
New York, New York 10007

Re: Monthly Progress Report No. 13 – September 2013 Lower Passaic River Study Area (LPRSA) River Mile 10.9 Removal Action CERCLA Docket No. 02-2012-2015

Dear Ms. Vaughn:

de maximis, inc. is submitting this Monthly Progress Report for the above-captioned project on behalf of the Cooperating Parties Group (CPG) pursuant to the Administrative Settlement Agreement and Order on Consent for Removal Action (Settlement Agreement or AOC). The Progress Report satisfies the reporting requirements of Paragraph 28 of the River Mile (RM) 10.9 Settlement Agreement.

(a) Actions which have been taken to comply with this Settlement Agreement during the month of September, 2013.

Meetings/Conference Calls

- On September 4, CPG met with all RM 10.9 Removal Action contractors and EPA to review the prior week's activities and to plan for the upcoming week.
- On September 9, CPG provided an on-site tour of the Removal Area to members of the Community Advisory Group.
- On September 10, CPG met with all RM 10.9 Removal Action contractors and EPA to review the prior week's activities and to plan for the upcoming week.
- On September 17, EPA held a teleconference with CPG to discuss Hudson County's willingness to open Bridge Street Bridge (BSB) manually and to explore if there was flexibility in US Army Corps of Engineers project schedules related to the use of the Clean Earth facility that could allow the Removal Action to resume.
- On September 18, EPA and CPG held a second teleconference to discuss the process and requirements for resuming dredging when BSB is manually opened.
- On September 24, CPG met with all RM 10.9 Removal Action contractors and EPA to review the prior week's activities and to plan for the upcoming week.
- On September 25, EPA held a teleconference with the CPG to discuss the Long Term Cap Chemical Monitoring Plan, and also directed the CPG to conduct post-dredge sediment sampling in the Removal Area.



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Correspondence

- On September 1, CPG notified EPA of the BSB outage and its immediate impact on Removal Action activities.
- On September 1, CPG informed all bridge operators of changes to barge movement schedules because of the mechanical failure at BSB.
- On September 3, EPA requested more information on the BSB outage and its impact on field activities.
- On September 3, Hudson County offered to manually open BSB with tow trucks to allow river traffic to resume, but after discussions with its engineers, withdrew that offer after being told that manual openings could further damage the bridge.
- On September 3, Great Lakes Dredge and Dock (GLDD) filed a Mariners Complaint with the US Coast Guard (USCG) regarding the BSB outage, and the CPG forwarded a copy of the complaint form to EPA.
- On September 3, CPG notified EPA that dredging could not resume at RM 10.9 until BSB could again be opened.
- On September 4, CPG notified EPA that a rower in the Passaic River fell from his boat after hitting debris in the river, and that he was rescued by Lyndhurst Fire Department after swimming to and holding onto the Removal Action's silt curtain system.
- On September 4, EPA asked the USCG to expedite its investigation and response to GLDD's Mariner's Complaint Form.
- On September 4, USCG notified the Joint Bridge Commission of Hudson and Essex Counties that BSB repairs needed to be expedited or face fines for non-compliance.
- On September 4, Hudson County issued a Declaration of Emergency regarding the BSB outage.
- On September 4, EPA reviewed and approved CPG's proposed <u>www.rm109.com</u> website reports, which were then posted on September 5.
- On September 4, CPG provided EPA with bathymetry results of the post-dredge surface in Area 2A, south of the No Dredge Zone.
- On September 5, EPA asked the CPG to determine the existence of rocks and other hard surfaces near-shore north of the Fire Department Boat Ramp, and reiterated its August 27 request to develop a sampling plan for the hard pan (sediment undercut) areas.
- On September 5, as a follow up to its September 1 Notice of Force Majeure to EPA; the CPG forwarded additional information regarding the BSB outage.
- On September 6, EPA indicated the survey results for Areas 1 and 2A were acceptable
 while asking for clarification on how the single beam results are interpolated to
 determine the final surface bathymetry, which the CPG then provided.
- On September 6, CPG distributed minutes of the weekly September 4 management review meeting.
- On September 9, CPG asked EPA if the USCG provided them with any updates on BSB status.

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- On September 9, USCG informed GLDD that they had no other interactions with Hudson County since their September 4 communications. GLDD reminded USCG that there were time-sensitive regulatory drivers behind this Removal Action, and USCG promised they would follow-up with EPA for more details.
- On September 9, USCG asked CPG to have EPA call the USCG to discuss the BSB situation further.
- On September 10, EPA informed CPG about its conversation with the USCG. EPA
 discussed the time critical nature of the Removal Action, what was needed in terms of
 bridge openings to allow dredging to resume, and the USCG discussed what means it
 could use and the limits of its authority in terms of pushing for timely BSB repairs.
- On September 10, EPA accepted most aspects of CPG's August 29 revisions to the QAPP Addendum-A Water Quality Monitoring plan, and CPG answered two additional questions raised by EPA during review of the QAPP.
- On September 10, CPG asked and EPA confirmed that they wanted the water quality monitoring data for COPCs posted on the www.rm109.com website.
- On September 10, CPG requested EPA review of postings proposed for the <u>www.rm109.com</u> website, and CPG proposed a reduction in COPC air monitoring frequency when dredging resumes.
- On September 11, CPG provided EPA with a summary report on TSS Turbidity relationship associated with Removal Action water quality monitoring to date.
- On September 11, EPA commented on CPG's proposed website postings and proposal for air monitoring modifications.
- On September 11, the USCG proposed to Hudson County, Essex County and EPA that BSB be manually opened to allow for nighttime marine traffic. Hudson County notified USCG that this could not be done without risking further damage until the gear assembly was removed from the bridge. EPA provided USCG with additional details on the Removal Action to support the urgency of its and CPG's request for BSB openings.
- On September 11, EPA discussed with CPG options for completing the Removal Action should BSB remain closed for another 4 weeks.
- On September 12, CPG distributed minutes of the September 10 weekly management meeting.
- On September 12, EPA requested that plans to sample hard pan areas, and projections
 of how rock will impact dredging in the northern portions of the Removal Area, be
 developed independent of concerns about BSB impacts on dredging schedules.
- On September 13, CPG posted production and environmental monitoring reports on the <u>www.rm109.com</u> website.
- On September 13, EPA requested from the USCG an update on BSB repair status.
- On September 13, EPA requested and the CPG provided data tables used to develop the TSS Turbidity relationships described in its September 11 memorandum.

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- On September 13, the CPG reiterated to EPA its concerns that unless the BSB was opened regularly (i.e., daily) so that dredging could resume within days, the ability of CPG to complete the Removal Action including dredging and capping in 2013 was unlikely.
- On September 16, Hudson County informed the CPG that the BSB damaged gear assembly had been removed from the bridge and that that their Engineer had determined that the BSB could be manually opened to allow Removal Action equipment to be demobilized.
- On September 16, CPG submitted a letter to EPA updating its September 1 Force Majeure notice and suggested steps forward based on the BSB outage.
- On September 16, USCG indicated it would not force the Counties to open BSB nightly.
- On September 17, CPG requested Hudson County provide two manual openings of BSB to allow for demobilization of dredging equipment; CPG then notified other bridge operators of the schedule.
- On September 17, EPA inquired of the US Army Corps of Engineers if there was flexibility in its schedule for GLDD work that requires the use of the Clean Earth facility.
- On September 17, Hudson County informed CPG that they would support multiple manual openings for BSB until the repairs were completed, provided that the CPG covered the cost.
- On September 17, USCG informed EPA and CPG that the willingness of the Counties to manually open the bridge should allow the Removal Action to resume work and indicated it would continue to promote prompt repairs of BSB.
- On September 17, CPG provided EPA with information on the contracts that GLDD has with the US Army Corps of Engineers and which relied on availability of the Clean Earth facility.
- On September 18, CPG offered to reimburse Hudson County for the cost of manually opening BSB provided the CPG was indemnified for potential damages associated with the manual openings, and Hudson County provided the CPG with a breakdown of expected costs associated with the manual openings.
- On September 18, CPG informed EPA of the actions it was taking that would allow it to resume dredging operations on September 19.
- On September 19, EPA reminded the CPG that with resumption of dredging, the Perimeter Air Monitoring Plan (PAMP) required additional COPC sampling in the area in which the dredge was currently operating. The CPG provided EPA an updated air monitoring schedule.
- On September 19, CPG provided bridge operators a schedule with additional bridge openings associated with the resumption of dredging activities.
- On September 19, EPA informed the CPG that a mobile air monitor needed to be deployed during dredging even if there was a fixed monitor adjacent to the dredging operation. CPG informed EPA it would deploy the mobile monitor.
- On September 20, the CPG reached an agreement with Hudson County regarding reimbursement and indemnification for manual BSB openings.

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- On September 20, CPG provided bridge operators an updated schedule of bridge openings associated with the resumption of dredging activities.
- On September 20, EPA asked the CPG about a report from September 19 of hydrocarbon odors when dredging near the Fire Department Boat Ramp and the CPG's response to those odors. CPG described how its air monitors were moved and air samplers turned on to determine if the odor would trigger any other type of response.
- On September 20, CPG informed EPA of the possible need to dredge on Sundays, proposed a data validation scheme for air monitoring data, repeated its request that the TSS – Turbidity study be suspended, and indicated that a plan for managing the hard pan areas would be submitted for EPA review on September 23.
- On September 20, EPA approved the air monitoring data validation plan and agreed that the TSS – Turbidity study could be suspended.
- On September 20, at EPA's request, the CPG provided the report describing how pore water samples were collected, composited and analyzed.
- On September 23, CPG requested that EPA approve an immediate reduction in the frequency of air monitoring COPC sample collection, and that air monitoring during capping be performed only for dust.
- On September 23, CPG requested EPA review of postings proposed for the www.rm109.com website.
- On September 24, CPG provided EPA a map showing the placement and direction of current dredging activities.
- On September 24, CPG provided EPA a memorandum with revised final volume estimates for the Removal Action.
- On September 24, EPA approved the request to reduce airborne COPC monitoring during the final weeks of dredging, requested that all air monitoring data collected during dredging be submitted prior to making any decisions regarding air monitoring during capping, and indicated that EPA was discussing internally if it would be acceptable to modify how silt curtains were used during capping.
- On September 24, EPA approved and the CPG posted status reports to www.rm109.com.
- On September 24, 2013, EPA clarified that the purpose of the sampling plan they have been requesting for the hard pan areas was to document (1) the residual COPC concentration in the hard pan areas, and (2) that further dredging cannot be conducted, in a way that would achieve the minimum dredge depth of approximately 2 feet specified in the Removal Action AOC.
- On September 25, CPG submitted to EPA a proposed Sampling and Poling Plan for hard pan areas encountered in cuts 4T and 6T, as well as a figure depicting how many coring events were involved in the collection of 24 historical sediment samples within 40 feet of the shoreline boundary of the Removal Area.
- On September 26, EPA approved the Sampling and Poling Plan provided that the CPG add analysis of PAHs and discuss how sampling would occur around large rocks. EPA also requested the Plan be implemented as soon as possible, and that additional poling be conducted in the northern finger of the Removal Area.

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- On September 26, CPG provided EPA a revised Sampling and Poling Plan containing the requested modifications.
- On September 26, CPG notified EPA that the Sampling and Poling Plan would start being implemented on September 27.
- On September 26, CPG distributed minutes from the September 24 weekly management review meeting.
- On September 26, CPG provided EPA a Technical Memorandum providing GLDD's September 10 poling results and recommendations for managing the steep sloped northern finger extension of the Removal Area.
- On September 26, CPG provided EPA a Technical Memorandum with recommendations for cap modifications in the undercut areas that (1) will not result in an increase above grade for the cap and (2) is protective..
- On September 27, EPA requested clarifications regarding the proposed plan for managing the steep slopes in the northern part of the Removal Area.
- On September 27, CPG provided bridge operators and the community with an updated bridge opening schedule.
- On September 29, Rutherford Police Department began contacting CPG contractors to ask about their policy for managing wakes in the Passaic River after receiving a complaint from a resident that boat wakes were damaging his private residence's shoreline.
- On September 30, CPG provided EPA a Red Line Strike Out version and a final version of the Sampling and Poling Plan, addressing additional EPA comments.
- On September 30, CPG answered EPA's September 27 questions regarding plans to manage the steep slope portion of the Removal Area. CPG also proposed an additional poling study of the steep slope from Station 30+00 to Station 37+50.

Work

- CPG investigated reports from Clean Harbors that some sediment loads received at their Oklahoma landfill contained free water. CPG investigated possible causes and solutions.
 After CPG started rejecting any intermodal container that had free water prior to adding stabilized sediment, there were no more reports of free water at the landfill.
- CPG observed a mechanical inspection of BSB on September 2 at which time Hudson County contractors concluded that the bridge repairs would take one month or more to implement.
- On September 4, dredging operations moved to the area north of the No Dredge Zone, and air monitoring equipment was also moved north as required by the PAMP.
- On September 9, because dredging operations had ceased, CPG reduced real-time air monitoring to one H₂S monitor adjacent to the full scow.
- On September 10, GLDD poled the shoreline and navigation borders of the Removal Action area on the northern slope, and encountered rocks and boulders along its length north of Station 32+00.

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- On September 10, in anticipation that BSB would not be opened for another 30 days, the CPG began to evaluate demobilization strategies from dredging in 2013.
- Throughout September, CPG evaluated, developed and proposed cap modifications for undercut area that would be protective..
- On September 19, dredging operations resumed at RM 10.9 Removal Area and air and water monitoring was also resumed.
- On September 25, a worker at Clean Earth injured his elbow while placing a tarp on an intermodal container, resulting in an OSHA Recordable.
- On September 30, a poling study was conducted on the steep slope finger extension of the Removal Area.

(b) Results of Sampling and Tests

- On September 4, CPG provided EPA turbidity data organized by tide cycles for the prior week of dredging activity.
- On September 18, CPG submitted to EPA validated results associated with the LPRSA RM 10.9 RA Pre-dredge Baseline Water Quality Monitoring activities.
- On September 24, CPG provided EPA turbidity data organized by tide cycles for the prior week of dredging activity.

(c) Work planned for the next two months with schedules relating to the overall project schedule for design completion and construction

- CPG will complete dredging, stabilization and disposal activities.
- CPG will demobilize from dredging, stabilization and disposal operations.
- · CPG will submit a Capping Operations Plan.
- · CPG will mobilize and begin capping operations
- CPG will continue to implement the approved WQMP and PAMP.
- CPG will seek modifications to the WQMP and PAMP for the capping phase.
- CPG will continue to provide regular and as-needed updates to river users about barge movements and other important project milestones.
- CPG will continue to monitor bridge operability issues.

(d) <u>Problems encountered and anticipated problems, actual or anticipated delays, and solutions developed and implemented to address actual or anticipated problems or delays</u>

 There is still no resolution concerning the Tierra/Maxus/Occidental (TMO) UAO and their participation in the RM 10.9 Removal Action. As documented in CPG's correspondence of July 27, 2012 and September 7, 2012, the offer from TMO was inadequate and provided no meaningful value to the RM 10.9 Removal Action. Ms. S. Vaughn RM 10.9 Removal Action - Progress Report No. 13 – September 2013 October 15, 2013 Page 8 of 9

- The inoperability of the BSB due to Hurricane Sandy damage delayed the start of the Removal Action because equipment could not be mobilized up river until that bridge was operational. CPG informed EPA of a Force Majeure condition by phone on June 24 and in writing on June 29 as required by the AOC. CPG and its contractors have worked with the Counties to continue to resolve the BSB operational issues and have agreed to provide funds to the three counties to support operator overtime. The CPG continued throughout August to monitor the operability of all bridges and keep EPA informed.
- The CPG strongly disagrees with the EPA's July 15 letter denying the Force Majeure condition outlined in CPG's June 29, 2013. EPA's rationale for denial is inconsistent with terms and definitions in the AOC. Both the inoperability of the Bridge Street Bridge due to Hurricane Sandy and the repeated delays in the repaired motors being shipped and reinstalled have been and continue to be clearly beyond the control of the CPG. Moreover, Hudson and Essex Counties have failed to meet their obligations under Federal Regulations to properly maintain and operate their bridges and to provide proper notice of the status of their bridges to US Coast Guard, mariners and the general public. Finally, the CPG is voluntarily providing funds to the Counties to operate the bridges with no regulatory requirement to do so. As noted above it is the Counties obligation to ensure that their bridges are operating and ready to open upon notice. The CPG has addressed this issue in its July 31 letter to EPA.
- A significant mechanical failure that occurred on August 31 at BSB has resulted in another Force Majeure condition that prevented any barge movement from August 31 through September 18. CPG provided initial notice to EPA's oversight contractor on August 31 and provided additional information on September 1 to the EPA. September 5, the CPG submitted a Force Majeure letter regarding the possible impact of this bridge failure on Removal Action schedules which was updated in September 17. On September 3, CPG notified the US Coast Guard of the situation and requested that the USCG use its authority to direct that the bridge be opened so that marine traffic can resume; the USCG would not compel the Counties to operate the BSB based on the Counties' initial concern about damage to the BSB. However, the Counties subsequently determined that the BSB could be opened without damage but demanded monetary compensation for bridge openings that they are required to provide upon receipt of proper and timely notice (without compensation) pursuant to federal regulations. CPG reluctantly agreed to provide the compensation in order to complete the Removal Action. EPA and USCG have been reluctant and unwilling to utilize their enforcement and regulatory authority to compel the Counties to fulfill their obligation, The re-opening of BSB on September 18 has allowed dredging to resume, and CPG now anticipates that the Removal Action including capping can be completed in late December 2013 or early January 2014 assuming there are no additional issues related to bridge operations or other conditions beyond its control...

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If you have any questions, please contact Bill Potter, Rob Law or me at (908) 735-9315.

Very truly yours,

de maximis, inc.

Stan Kaczmarek, PE

Stan Kaczmarck / cfc

RM 10.9 Removal Action Project Coordinator

cc: Pat Hick, EPA Office of Regional Counsel

William Hyatt, CPG Coordinating Counsel

Jay Nickerson, NJDEP Roger McCready, CH2M Hill

Sharon Budney, CMD-Smith

Elizabeth Franklin, US Army Corps of Engineers